

U.S. Department of Justice



*United States Attorney
Eastern District of New York*

CP:MKM
F.#2011R00671

271 Cadman Plaza East
Brooklyn, New York 11201

May 13, 2011

By FedEx

Matthew E. Fishbein, Esq.
Debevoise & Plimpton
919 Third Avenue
New York, New York 10022

Re: United States v. Mario Guerrero-Leon
Criminal Docket No. 11-310 (ARR)

Dear Mr. Fishbein:

Pursuant to Rule 16 of the Federal Rules of Criminal Procedure, please find enclosed with this letter discovery in the above-referenced matter. Please also consider this letter to be the government's request for reciprocal discovery.

1. Prior Criminal History

Enclosed with this letter is a copy of the defendant's criminal history, Bates numbered 32-50. Also enclosed is a copy of the Certificate of Disposition Indictment from the defendant's 2003 conviction in the Supreme Court of the State of New York for Attempted Criminal Sale of a Controlled Substance 3rd Degree, Bates numbered 51.

2. Statements of the Defendant, Documents and Tangible Objects

Enclosed please find copies of U.S. Marshals Service documents that include information provided by the defendant upon processing, Bates numbered 52-56.

Enclosed please find a copy of an Order of Removal, dated July 6, 2004, Bates numbered 8-10.

Enclosed please find a copy of a Certificate of Nonexistence of Record by the U.S. Department of Homeland Security, dated April 5, 2011, Bates numbered 11-31.

In addition, the government provides herewith copies of documents from the defendant's A-File, including documents that contain statements made by or reflecting information provided by the defendant, such as the defendant's fingerprints and signature, as well as other documents, Bates numbered 57-153.

You may call me to arrange a mutually convenient time to inspect, copy, and/or photograph the evidence and original documents discoverable under Rule 16.

3. Reports of Examinations and Tests

Enclosed please find a copy of the fingerprint comparison, Bates numbered 1-7. The government will provide you with copies of reports of any examinations or tests conducted in connection with this case, as they become available.

4. Expert Witnesses

The government will comply with Fed. R. Crim. P. 16(a) (1) (G) by notifying you in a timely fashion of any expert the government intends to call at trial and by providing you with the expert's credentials and a summary of the expert's opinion.

At present, the government intends to call a fingerprint expert to testify that the fingerprints taken from the defendant on the date of his arrest in this case match the fingerprints taken in connection with his deportation and his underlying aggravated felony conviction.

The expert's identity, qualifications, and the bases for his conclusions will be provided to you when they become available.

5. Brady Materials

The government is not aware of any exculpatory material regarding the defendant. The government understands and will comply with its continuing obligation to produce exculpatory material as defined by Brady v. Maryland, 373 U.S. 83 (1963), and its progeny.

Before trial, the government will furnish materials discoverable pursuant to Title 18, United States Code, Section 3500, as well as impeachment materials. See Giglio v. United States, 405 U.S. 150 (1972).

6. Other Crimes, Wrongs or Acts

The government will provide the defendant with reasonable notice in advance of trial if it intends to offer any material under Federal Rule of Evidence 404(b).

7. The Defendant's Required Disclosures

The government hereby requests reciprocal discovery under Rule 16(b) of the Federal Rules of Criminal Procedure. The government requests that the defendant allow inspection and copying of (1) any books, papers, documents, photographs, tapes, tangible objects, or copies or portions thereof, which are in the defendant's possession, custody or control, and which the defendant intends to introduce as evidence or otherwise rely on at trial, and (2) any results of reports or physical or mental examinations and of scientific tests or experiments made in connection with this case, or copies thereof, which are in the defendant's possession, custody or control, and which the defendant intends to introduce as evidence or otherwise rely upon at trial or which were prepared by a witness whom the defendant intends to call at trial.

The government also requests that the defendant disclose prior statements of witnesses who will be called by the defendant to testify. See Fed. R. Crim. P. 26.2. In order to avoid any unnecessary delay, we request that you have copies of these statements available for production to the government no later than the commencement of trial.

The government also requests that the defendant disclose a written summary of testimony the defendant intends to use under Rules 702, 703, and 705 of the Federal Rules of Evidence. The summary should describe the opinions of the witnesses, the bases and reasons for those opinions, and the witnesses' qualifications.

If you have any questions or further requests, please do not hesitate to contact me.

Very truly yours,

LORETTA E. LYNCH
United States Attorney
Eastern District of New York

By: /s/
M. Kristin Mace
Assistant U.S. Attorney
(718) 254-6879

Enclosures

cc: Clerk of Court (ARR) (by ECF & without enclosures)